

STATEMENT OF REPRESENTATIVE WM LACY CLAY
Before the
Subcommittee on Capital Markets, Insurance and Government Sponsored
Enterprises

“H.R. 2179, the Securities Fraud Deterrence and Investor Restitution Act of 2003”

June 5, 2003

Good morning Chairman Baker, Ranking Member Kanjorski, Members of the committee and witnesses.

We are sorely in need of legislation that will strengthen the Securities and Exchange Commission’s ability to prosecute wrongdoers, strengthen protections for investors, return monies to injured investors and strengthen market integrity.

In this climate of investor distrust of the markets, we must intensify the fight against fraud on all fronts. I am especially pleased that under the provisions of H.R. 2179, with judicial approval, the Justice Department will be able to share grand jury information with the SEC in more circumstances and at an earlier stage than is allowed under current statutes. We must always be careful to protect rights of privacy. However, we must be able to recognize when some are using the cover of privacy to commit fraud. We must weed them out of the system. We can only do that by strengthening the tools that we give to our investigative and prosecutorial authorities.

I generally support most of the bill, but do have questions about some of the preemptions of state laws. I served in the State Legislature in Missouri for 17 years and have reservations about what the impact will be on the ability of states to investigate and bring those who practice fraud to Justice. States play a very important role in our securities markets. We do not want to compromise their ability to vigorously attack fraud and market misconduct. I think further study is needed before we take the step of having the states remit penalties obtained against brokers if the state statute that they were obtained differs from federal statutes. If these changes do not improve investor restitution then we were too hasty.

I do agree that something must be done to eliminate the haven that some find in selected states homestead regulations. This haven must be eliminated, but is a blanket elimination of state homestead exemptions the answer? We will explore this and several other questions during this hearing and I eagerly anticipate them.

Mr. Chairman I ask unanimous consent to submit my statement to the record.

